

# TRUST LAND MANAGEMENT DIVISION



PHOTOS: SCHOOL, LOGGING TRUCK, AND OIL WELL BY HOYT RICHARDS; COMMERCIAL DEVELOPMENT BY DNRC STAFF.

# TRUST LAND MANAGEMENT DIVISION

*Manage the State of Montana's trust land resources to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land.*

## Overview

General background information on the Trust Land Management Division (TLMD) is available on the department's website:

[www.dnrc.state.mt.us/trust/tlmdhome.htm](http://www.dnrc.state.mt.us/trust/tlmdhome.htm)

## History

By the Enabling Act approved February 22, 1889, the Congress of the United States granted to the State of Montana, for common school support, sections sixteen and thirty-six in every township within the state. Some of these sections had been homesteaded, some were within the boundaries of Indian reservations, and yet others had been otherwise disposed of before passage of the Enabling Act. To make up for this loss, and in lieu thereof, other lands were selected by the State of Montana.

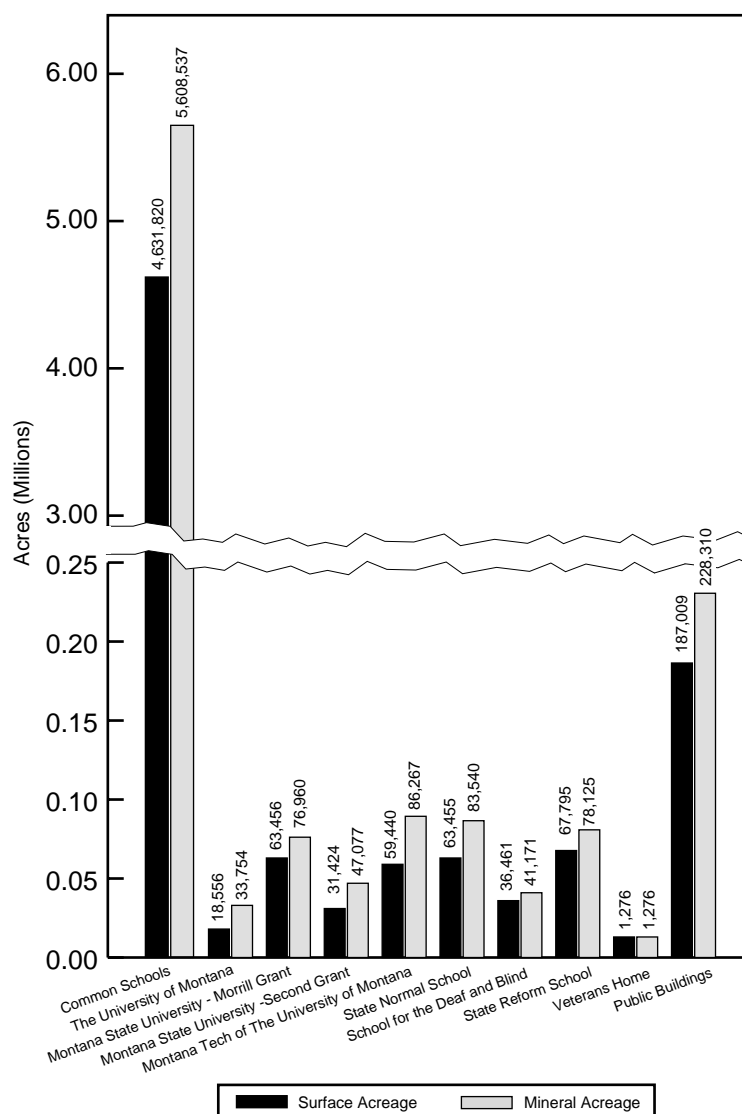
The Enabling Act and subsequent acts also granted acreage for other educational and state institutions, in addition to the common schools. The original common school grant was for 5,188,000 acres. The additional acreage provided for other endowed institutions included 668,720 acres, for a total of 5,856,720 acres. The total acreage figure (see Figure 18) fluctuates through the years due to land sales and acquisitions. Mineral acreage now exceeds surface acreage because the mineral estate has been retained when lands are sold. Surface acreage at the end of FY 2004 totals over 5.1 million acres; mineral acreage exceeds 6.2 million acres.

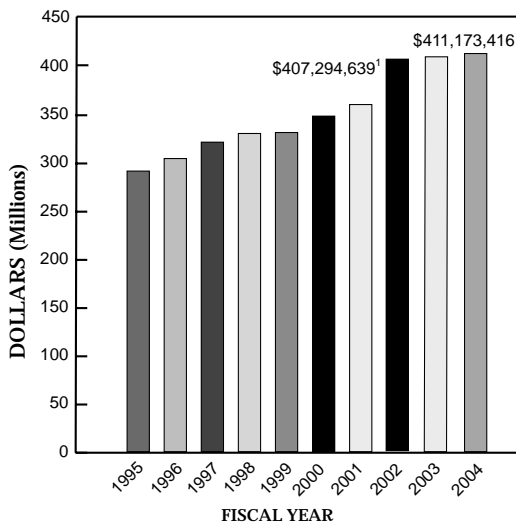
The trust land management program has been returning revenues averaging \$39.2 million to the school trusts over each of the past five years. Those revenues have been obtained through an average annual expenditure of \$6.8 million. Therefore, the ratio of dollars returned to dollars expended is 5.8 to 1.

## The Permanent Fund

The Enabling Act provided that proceeds from the sale and permanent disposition of any of the trust lands, or part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various state institutions for which the lands had been granted. The Montana Constitution provides

**Figure 18. Current Land Ownership  
(as of August 3, 2004)**



**Figure 19. Permanent Fund Balance**

1. The Fiscal Year 2002 total includes \$46.4 million in coal trust loan proceeds, pursuant to Senate Bill 495 (2001 Legislature).

that these permanent funds shall forever remain inviolate, guaranteed by the State of Montana against loss or diversion. These funds are often referred to as “nondistributable.”

The program generated over \$5 million in gross nondistributable revenue in FY 2004, which was offset by trust administration expenses of over \$3.7 million. The net revenue resulted in a balance of over \$411 million in the combined permanent funds. The permanent trust balance is shown in Figure 19.

### Other Revenues

Table 23 shows the gross distributable and nondistributable interest and income for each of the trust beneficiaries. In FY 2004, the division used a portion of trust land revenues to fund administrative appropriations as shown in Table 24.

<b>Table 24</b>	
<b>Funding of Trust Land Administration</b>	
Trust Administration Account (MCA 77-1-108)	\$3,742,570
Timber Sale Account (MCA 77-5-204)	3,164,036
Forest Improvement Fees (MCA 77-5-204))	2,029,625
Resource Development Account (MCA 77-1-604)	582,209
<b>TOTAL</b>	<b>\$9,518,440</b>

In FY 2004, the division also used \$98,580 in funding from the Recreational Use Account (MCA 77-1-808) for administration of the Recreational Use Program.

In addition to management activities on behalf of the trust beneficiaries, the division generated other revenues and distributions in FY 2004. The five-year summary presented in Table 25 shows gross revenues for all division activities in the amount of \$75,729,780. Table 26 provides a reconciliation of other revenues and distributions from the Table 23 and Table 25 summaries.

<b>Table 26</b>	
<b>Reconciliation of Revenues and Distributions</b>	
Gross distributable revenues	\$64,773,673
Gross nondistributable revenues	5,398,571
Senate Bill 495 debt service	5,226,275
General Fund revenues	142,994
Recreational Use Account	98,580
Non-land grant income	63,240
Other agency revenues	26,447
<b>TOTAL</b>	<b>\$75,729,780</b>

**Table 23**  
**Distributable and Nondistributable Trust Revenues in Fiscal Year 2004**

Distributable Revenues		Gross Distributable Interest and Income		Resource Development <sup>2</sup>	Timber Sale Account <sup>2</sup>	Forest Improvement Fees	Trust Admin. Account <sup>2</sup>	Net Distributable Income
Trust								
Common Schools <sup>1</sup>	\$58,378,908	\$531,521	\$2,301,619	\$1,463,988	\$3,311,911	\$50,769,869		
The University of Montana	213,504	3,128	0	5	0	210,371		
Montana State University - Morrill Grant	390,151	0	0	0	0	390,151		
Montana State University - Second Grant	1,045,146	12,980	0	0	0	1,032,166		
Montana Tech of The University of Montana	709,712	11,375	0	0	0	698,337		
State Normal School	598,433	4,683	0	10,790	0	582,960		
School for the Deaf and Blind	303,858	2,797	0	0	0	301,061		
State Reform School (Pine Hills)	404,066	5,759	0	0	0	398,307		
Veterans Home	7,607	191	0	0	0	7,416		
Public Buildings	2,722,288	9,775	448,435	292,891	98,964	1,872,223		
TOTALS	\$64,773,673	\$582,209	\$2,750,054	\$1,767,674	\$3,410,875	\$56,262,861		
Nondistributable Revenues		Gross Nondistributable Interest and Income			Timber Sale Account <sup>2</sup>	Forest Improvement Fees	Trust Admin. Account <sup>2</sup>	Net Nondistributable Income
Trust								
Common Schools	\$3,255,179		\$0	\$0	\$288,037	\$2,967,142		
The University of Montana	3,465		11	2	793	2,659		
Montana State University- Morrill Grant	556,733		0	0	0	556,733		
Montana State University- Second Grant	692,450		196,453	130,006	5,311	360,680		
Montana Tech of The University of Montana	33,354		8,676	6,269	753	17,656		
State Normal School	239,072		70,935	35,575	2,013	130,549		
School for the Deaf and Blind	26,724		6,987	4,758	5,073	9,906		
State Reform School (Pine Hills)	591,594		130,920	85,341	29,715	345,618		
Veterans Home	0		0	0	0	0		
TOTALS	\$5,398,571		\$413,982	\$261,951	\$331,695	\$4,390,943		

1. Includes common school mineral royalties of \$12,416,350 less \$5,226,275 in debt service costs, per Senate Bill 495.

2. Administrative appropriation.

3. Trust balances reflect deposit activity by DNRC only, and do not include valuation adjustments from investment activities by the Board of Investments.

**Table 25**  
**Five-Year Summary of**  
**Gross Revenue Generated (by Activity)**

Activity	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
<b>Agriculture and Grazing Management</b>					
Grazing leases	\$4,494,637	\$5,364,305	\$6,047,838	\$5,818,832	\$5,467,667
Agriculture leases	9,331,416	8,654,425	7,232,111	8,297,415	8,419,535
<b>TOTALS</b>	<b>\$13,826,053</b>	<b>\$14,018,730</b>	<b>\$13,279,949</b>	<b>\$14,116,247</b>	<b>\$13,887,202</b>
<b>Forest Management</b>					
Timber sales	\$10,591,657	\$6,596,578	\$8,282,481	\$6,915,128	\$9,013,900
Forest improvement fees	1,524,822	1,981,597	1,404,363	1,363,664	2,029,625
<b>TOTALS <sup>1</sup></b>	<b>\$12,116,479</b>	<b>\$8,578,175</b>	<b>\$9,686,844</b>	<b>\$8,278,792</b>	<b>\$11,043,525</b>
<b>Minerals Management</b>					
Oil and gas revenues					
Rentals/bonuses/penalties	\$2,966,285	\$3,098,515	\$2,462,315	\$2,402,510	\$3,187,540
Royalties	3,684,595	6,212,546	3,954,898	5,759,027	7,703,137
Seismic exploration	11,075	6,533	13,280	9,744	4,690
Aggregate minerals					
Rentals	250	600	400	175	600
Royalties	245,693	225,019	158,044	168,078	173,178
Coal					
Rentals/bonuses	44,371	6,261,360	45,810	43,897	43,897
Royalties	4,649,634	4,944,170	2,836,919	3,877,054	4,676,964
Other minerals					
Rentals/penalties	32,246	20,543	21,775	17,179	20,009
Royalties	8,878	8,079	7,813	4,984	972
<b>TOTALS</b>	<b>\$11,643,027</b>	<b>\$20,777,365</b>	<b>\$9,501,254</b>	<b>\$12,282,648</b>	<b>\$15,810,987</b>
<b>Real Estate Management</b>					
Rights-of-way	\$279,014	\$218,456	\$307,274	\$189,078	\$2,117,993
Land sales	261,884	0	15,954	19,744	2,900
Leases					
Residential	718,290	790,030	854,626	949,102	929,995
Nonresidential	609,193	509,071	508,399	579,409	386,147
Licenses (nonrecreational) <sup>2</sup>					179,784
Recreational use					
General licenses	381,740	387,016	517,730	558,690	801,980
Special recreation use licenses	98,948	104,206	114,629	91,190	112,304
<b>TOTALS</b>	<b>\$2,349,069</b>	<b>\$2,008,779</b>	<b>\$2,318,612</b>	<b>\$2,387,213</b>	<b>\$4,531,103</b>
<b>Other</b>					
Trust and legacy interest <sup>3</sup>	\$25,620,337	\$26,012,671	\$29,661,124	\$29,210,558	\$30,140,513
Other revenues	847,978	838,994	416,871	342,572	316,450
<b>TOTALS</b>	<b>\$26,468,315</b>	<b>\$26,851,665</b>	<b>\$30,077,995</b>	<b>\$29,553,130</b>	<b>\$30,456,963</b>
<b>TOTALS</b>	<b>\$66,402,943</b>	<b>\$72,234,714</b>	<b>\$64,864,654</b>	<b>\$66,618,030</b>	<b>\$75,729,780</b>

1. Forest management revenues were restated to reflect the collection of forest improvement fees.

2. Leases and licenses were combined for FY 2000 through FY 2003.

3. FY 2003 interest earnings were restated to reflect a change in accounting methods regarding interest accruals.

## Technology Acquisition and Depreciation Fund

The Trust Land Management Division generated \$3,178,988 from the sale of timber from common school lands for the Technology Acquisition and Depreciation Fund for FY 2004, pursuant to MCA 20-9-343. This fund is administered by the Office of Public Instruction and used for purchases as defined in MCA 20-9-533.

## Interest and Income

The Enabling Act further provided that rentals received on leased lands, interest earned on the permanent funds arising from these lands, interest earned on deferred payments on lands sold, and all other actual income shall be available for the maintenance and support of such schools and institutions. These funds are referred to as “distributable.” The Trust Land Management Division distributed over \$64 million in earnings and interest directly to the public schools and other entities in FY 2004.

The Montana Board of Investments manages the investments of the permanent fund on behalf of the trust beneficiaries. This fund is also referred to as the Trust and Legacy Fund. The board’s management tenets are expressed in the following excerpt.

***History** - Article X, Sections 2 and 3 of the state Constitution requires that all royalties and other proceeds received from school lands granted to the state under federal enabling legislation be deposited in the Trust and Legacy Fund, where it shall forever remain inviolate and guaranteed by the state against loss or diversion.*

### **Investment Objective/Constraints**

- Long-term, tax-exempt account with a time horizon well beyond normal market cycles.
- Constitution does not permit equity investments.
- Low liquidity requirements, except for investment purposes.
- Current income is important because 95 percent of income is appropriated by the Legislature.
- Broadly diversified portfolio of fixed-income securities, producing a total rate of return exceeding the Lehman Brothers Aggregate Bond Index over a five-year rolling period.

... Montana Board of Investments, *Fiscal Year 2002 Annual Report*, Helena, Montana, p. 41.

## Distribution of Revenues

Each section of state trust land is assigned to a specific trust. Distribution of revenues is handled in three different ways, as explained in the following subsections, depending on the section of trust land that generated the revenue.

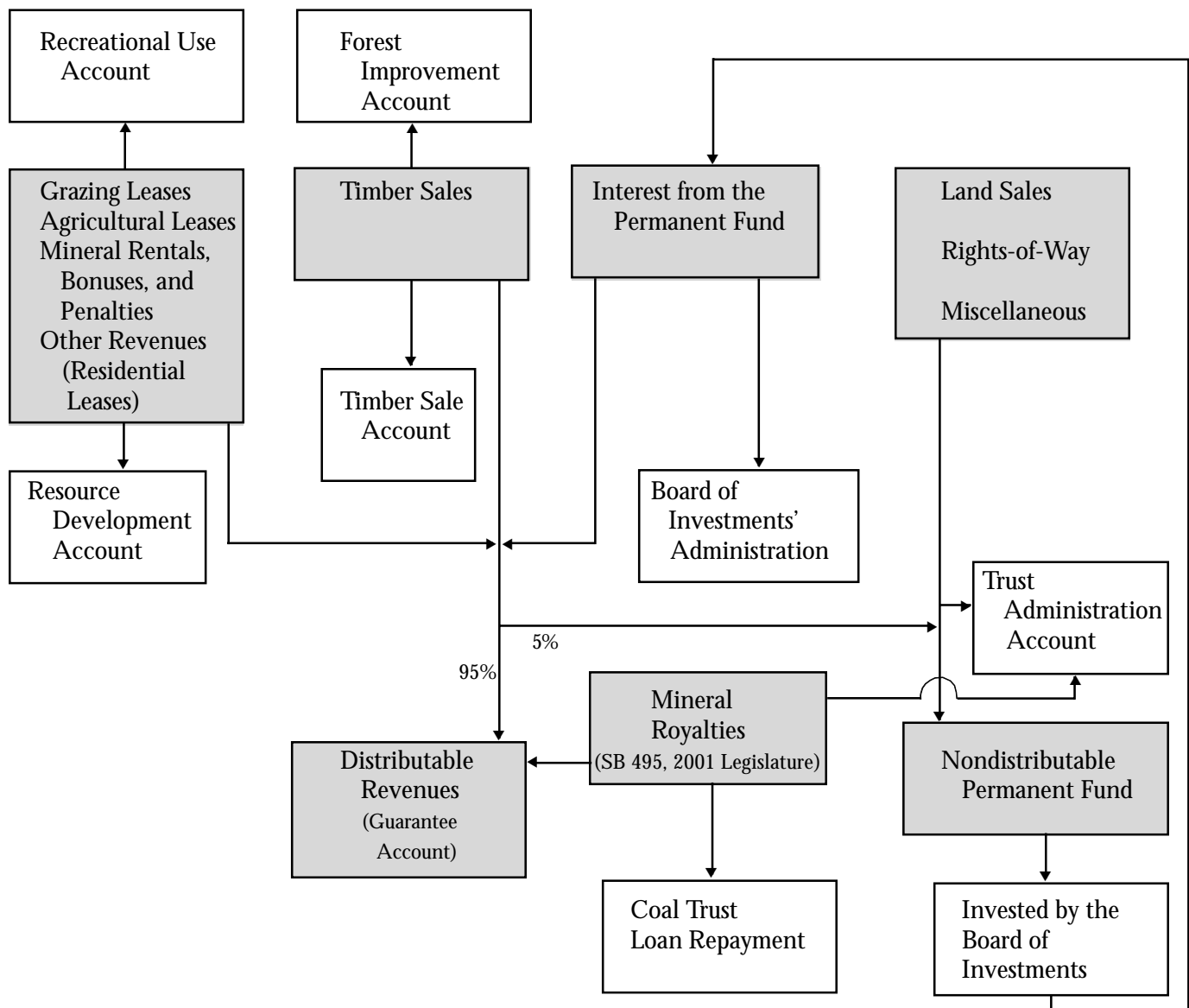
The Trust Land Management Division also utilizes some general fund dollars to administer land for some other state agencies, in addition to state trust land. Revenue generated from that land is transferred directly to the state agency.

The Trust Land Management Division is funded predominantly by a combination of trust revenues.

### Common School Trust

The distribution of revenues generated from common school trust land is illustrated in Figure 20. From the distributable receipts, a small percentage is used to fund the Resource Development Account and the Timber Sale Account. Ninety-five percent of the remaining distributable revenue is distributed yearly to the state Guarantee Account for use by the public schools of the state. The other 5 percent, together with nondistributable revenue, comprise the Permanent Fund. The interest earned on the Permanent Fund is also distributed to the Guarantee Account for use by the public schools, with the exception of 5 percent, which is returned to the Permanent Fund for reinvestment.

**Figure 20. Distribution of Revenues from Common School Trust Lands**

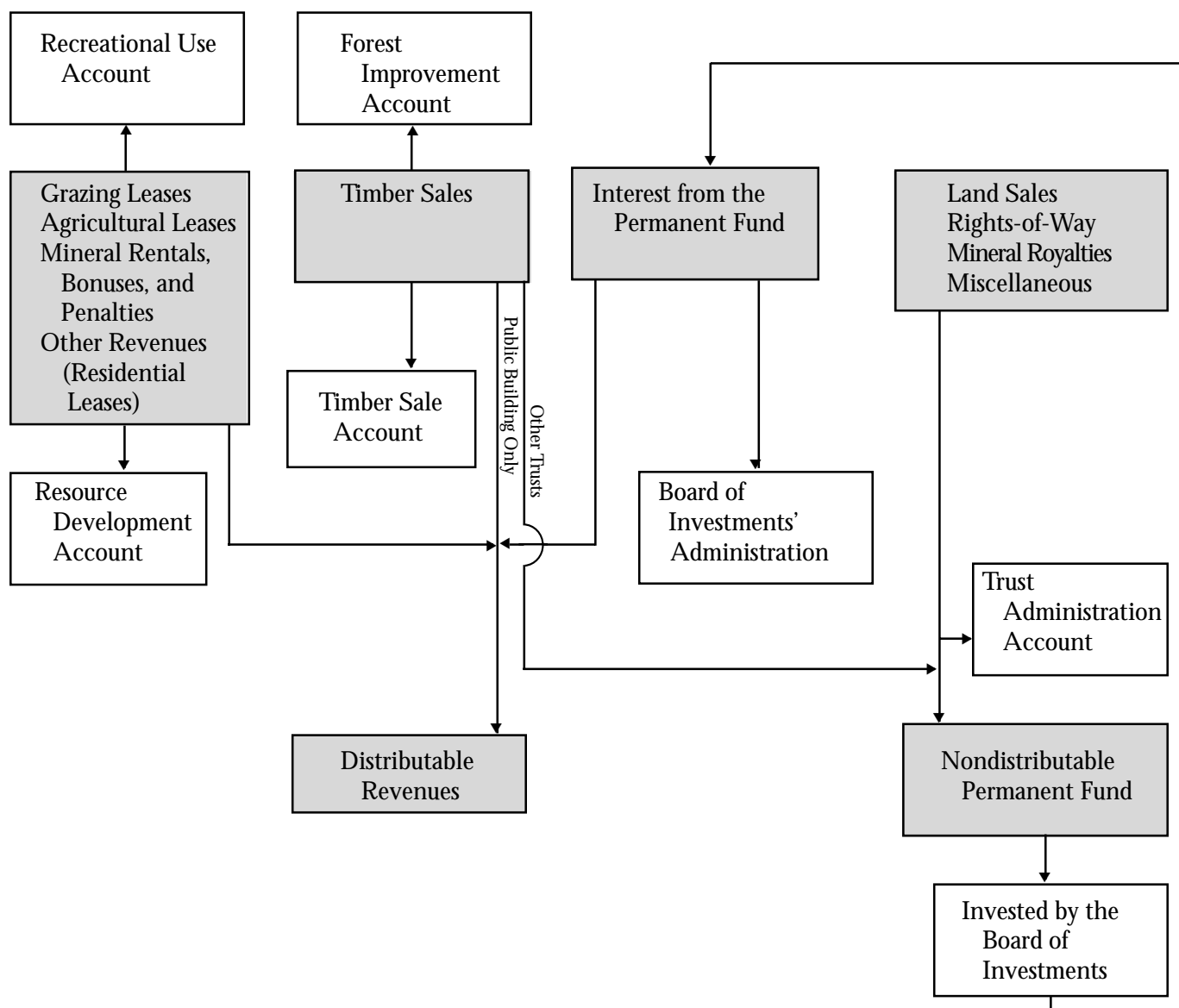


## Trusts Other Than the Common School Trust

Distribution of revenues to the other trusts is similar (see Figure 21). A small percentage goes to the Resource Development Account and the Timber Sale Account. All of the remaining distributable receipts go directly to the trust recipient. Included in “other” trusts are:

- The University of Montana
- Montana State University - Morrill Grant
- Montana State University - Second Grant
- Montana Tech of The University of Montana
- State Normal School (Montana State University-Billings and Western Montana College of The University of Montana)
- School for the Deaf and Blind
- State Reform School (Pine Hills)
- Veterans Home

**Figure 21. Distribution of Revenues from Other Trusts (Excluding Common School)**



## Public Buildings

Distribution of revenues on public buildings trust land is similar. There is no permanent fund, however, so remaining distributable receipts go to the Department of Administration.

## Division Overview

The purpose of the Trust Land Management Division is to administer and manage the state trust timber, surface, and mineral resources for the benefit of the common schools and the other endowed institutions in Montana, under the direction of the Board of Land Commissioners. The Board of Land Commissioners, which is often called the “State Land Board,” consists of Montana’s top elected officials:

Judy Martz, Governor Bob Brown, Secretary of State Linda McCulloch, Superintendent of Public Instruction Mike McGrath, Attorney General John Morrison, State Auditor
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The division is divided into four primary programs: agriculture and grazing management, forest management, minerals management, and real estate management. Program administration, direction, oversight, and support are provided by staff and program specialists located in Helena and Missoula. On-the-ground management is provided by field personnel located throughout the state.

The department’s obligation is to obtain the greatest benefit for the school trusts pursuant to MCA 77-1-202. The greatest monetary return must be weighed against the long-term productivity of the land to ensure continued future returns to the trusts. Total gross revenues generated by the Trust Land Management Division over the last five years are listed by activity in Table 25 on page 84. This table contains not only trust revenues, but also those revenues collected for other state entities, revenues appropriated to fund a portion of the division’s programs, and other miscellaneous revenues collected by the division.

## Agriculture and Grazing Management

The Agriculture and Grazing Management Bureau supervises the management and leasing of approximately 10,000 agreements for crop and rangeland uses on 4.65 million acres of school trust lands throughout the state. These duties are accomplished by administrative staff and specialists located in the department’s Helena office and by staff located in field offices statewide.

## Surface Leasing

The program is responsible for the administrative functions associated with maintaining surface lease agreements. Each year, responsibilities include processing approximately 1,000 lease renewals; advertising, competitively bidding, and issuing approximately 50 new leases; reviewing and processing assignments, subleases, pasturing agreements, custom farming agreements, pledges, and mortgages; and collecting, verifying, and posting rentals and fees.

## Agricultural Lands

Currently 3,000 agreements include agricultural use of state trust lands. Crops raised on these lands are primarily dryland hay and small grains, but also include irrigated grain crops, corn, sugar beets, potatoes, canola, safflower, alfalfa seed, and native grass seed (see Figure 22).

In FY 2004, revenues totaling \$8,419,535 were received from agricultural leasing (see Figure 23). The majority of the leases are on a crop-share basis with the minimum share of 25 percent set by statute. In addition to receiving rental payments from lessees, the state participates in and receives farm program payments from the U. S. Department of Agriculture (USDA) Farm Service Agency. For FY 2004, this amount exceeded \$3,160,000 for direct payment contracts, lands enrolled in the Conservation Reserve Program (CRP), and loan deficiency payments.

## Grazing Lands

Approximately 8,500 agreements include grazing use of trust lands. The 4.3 million acres of classified grazing lands and forestlands have an estimated carrying capacity of 1,110,000 animal unit months (AUMs). The minimum rental rate for grazing leases is set by a formula which includes the average weighted price for beef cattle sold in Montana during the previous year. In FY 2004, grazing leases generated \$5,467,667 (see Figure 24).

## Land Management

The program manages the agricultural and grazing resources on the lands administered by the bureau. This responsibility includes evaluation and assessment of range and cropland condition; compliance with the Montana Environmental Policy Act (MEPA); administration of archeological, paleontological, and historical properties on state trust land; investigations of lease noncompliance; participation in the Federal Farm Program; and oversight of water developments, water rights, and improvement projects such as range renovation and resource development.

## Weed Audit

In February 2003, the Legislative Audit Division released a performance audit regarding noxious weed management on state land. Based on the recommendations from the audit, the division developed new cooperative weed management plans with the county weed districts along with area weed management plans. The plans are intended to guide the division in how weeds are managed on trust lands and help prioritize funding of weed control projects. Additionally, the division will propose legislation in the upcoming session to address problems of noncompliance with weed management plans under lease and license agreements.

## Preference Right Litigation

During this past fiscal year, the division was involved in litigation that challenged the statutory preference right of agriculture and grazing lessees to match bids and retain leases at renewal. In July, the District Court in

Figure 22  
Production of Major Crops in FY 2004

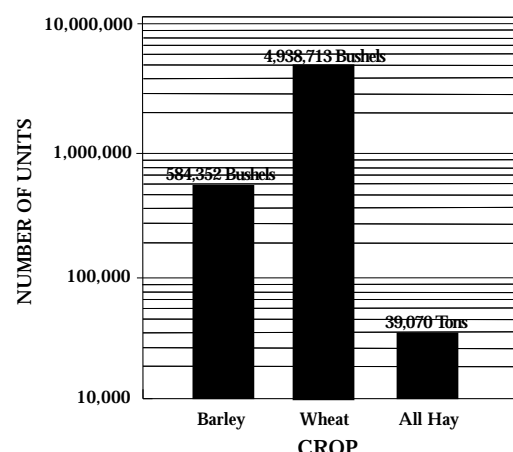


Figure 23  
Agricultural Revenue

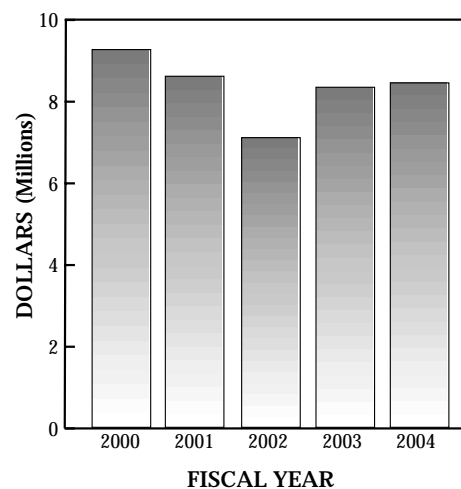
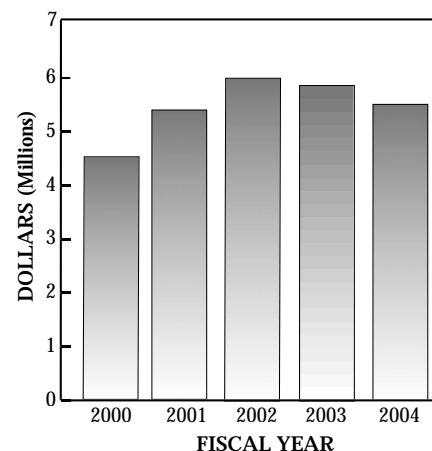


Figure 24  
Grazing Revenue



Helena ruled that that portion of the statute was unconstitutional, stating that it interfered with the duty of the State Land Board to choose whom it believes is the best lessee possible. The board and the department are currently exploring options on how the ruling might be implemented.

### **Restoration Project**

Lastly, the division and Montana Department of Transportation (DOT) recently completed the first phase of a restoration project on the West Fork of the Stillwater River located 45 miles south of Columbus. A log jam had forced one of the river's channels through an island, closing off one of the channels and creating flooding problems on school trust and private land. DOT realigned a county road and constructed two new bridges over a double channel reach of the river. The river restoration project entails splitting the river back into two channels. DNRC is testing a new bioengineered restoration method using temporary concrete blocks to protect willow plantings until they develop sufficient root mass to protect the reconstructed stream banks. The concrete blocks will be removed after about three years. This method is being developed as an alternative to the use of rock riprap. Willow rootstock was obtained from the DNRC State Nursery.

### **Forest Management**

The Forest Management Bureau oversees forested, state-owned trust lands to provide income to the various school trusts. Income is derived from the sale of forest products. The bureau also provides program direction and support to the area land offices. Several resource management sections provide technical expertise. Support and program direction are offered in several different ways: developing resource management standards, conducting site-specific reviews, and formulating recommendations as members of interdisciplinary teams that develop land management proposals.

The area land offices have primary responsibility for on-the-ground management activities. With assistance from the Forest Management Bureau, they conduct environmental reviews of proposed management activities, prepare contracts for those activities, and complete the necessary field work.

The *State Forest Land Management Plan* (SFLMP), approved by the State Land Board in June 1996, and associated rules guide the management of the forested trust lands. This guidance is provided in the form of general management philosophy and specific resource management standards. The strategic guidance provided by SFLMP is summarized in this excerpt:

*Our premise is that the best way to produce long-term income for the trust is to manage intensively for healthy and biologically diverse forests. Our understanding is that a diverse forest is a stable forest that will produce the most reliable and highest long-term revenue stream. Healthy and biologically diverse forests would provide for sustained income from both timber and a variety of other uses. They would also help maintain stable trust income in the face of uncertainty regarding future resource values. In the foreseeable future timber management will continue to be our primary source of revenue and primary tool for achieving biodiversity objectives.*

## **Sustained Yield Study**

The 2003 Legislature in House Bill 537 directed the Forest Management Bureau to conduct a new sustained yield study. The purpose of the study was to set a new annual timber sales target based on updated forest inventory information. This forest inventory information is more accurate and covers a broader area of the forested trust lands. The study was completed in October 2004 by a contracted third party, and the new sales target of 53.2 million board feet will begin in FY 2005, upon approval by the State Land Board.

## **Habitat Conservation Plan**

The Forest Management Bureau is currently developing a statewide Habitat Conservation Plan. The plan is a series of conservation strategies designed to minimize the impacts of DNRC management activities on threatened or endangered fish and wildlife species, while providing DNRC with long-term management assurances and overall flexibility. The plan is required in the application for an Incidental Take Permit authorized under Section 10 of the Endangered Species Act. With the permit, issued by the U.S. Fish and Wildlife Service (FWS), DNRC will be able to conduct otherwise legal management activities that may incidentally harm a species or habitat. The objective of this plan, developed in cooperation with FWS, is to provide habitat protection for the included species while providing for the continued Forest Management Program on forested trust land. This planning project will be completed in 2007.

## **Forest Improvement**

The program uses fees from harvested timber to improve the health and productivity of trust forests. Uses of these fees authorized by statute include disposal of logging slash, reforestation, acquiring access and maintaining roads necessary for timber harvest, other treatments necessary to improve the condition and income potential of state forests, and compliance with other legal requirements associated with timber harvest. Specific activities include piling of logging slash, prescribed burning, site preparation, seed collection, seedling production, tree planting, thinning, genetic tree improvement, erosion control, and culvert replacement.

In FY 2004, the activities listed in Table 27 were undertaken to improve the health and productivity of forested state trust lands.

**Table 27**  
**Forest Improvement Activities in FY 2004**

Plantation regeneration surveys	1,030 acres
Tree planting	1,185 acres
Tree browse prevention <sup>1</sup>	650 acres
Precommercial thinning	2,139 acres
Noxious weed spraying	5,462 acres
Herbicide application <sup>2</sup>	376 acres
Brush piling	1,952 acres
Hand brush work	102 acres
Pile burning	2,664 acres
Broadcast burning	351 acres
Tree improvement areas managed	27 acres
Road maintenance <sup>3</sup>	17 miles
Right-of-way granted	22 miles
Right-of-way received	56 miles
Cone collection	397 bushels

1. Tree browse prevention includes replacing, maintaining, or removing seedling netting or applying a chemical repellent.
2. Herbicide application is associated with tree planting.
3. Road maintenance includes grading, snowplowing, removing and maintaining bridges, installing culverts, etc. Many of these activities do not lend themselves to reporting by miles.

## Inventory

The program is responsible for the collection and analysis of forest resource inventory data in Montana. The program provides a current, comprehensive inventory of the timber resources on 727,000 acres of forested land administered by the Department of Natural Resources and Conservation. Stand-level inventory maps have been drawn and resource data collected for 1,206,000 forested and nonforested acres of state trust land. The development and maintenance of a geographic information system (GIS) used to support planning for forest management activities and environmental analyses is another responsibility of this program.

In FY 2004, the inventory program collected 14,200 acres of stand-level inventory data. The Fiscal Year 2004 statewide inventory updating process resulted in 7,600 updated polygons on the GIS map. A total of 2,614,000 acres of DNRC subsurface ownership were added to the GIS ownership map. A total of 179,800 miles of roads were added, edited, or updated on the GIS road map.

## Forest Product Sales

The program incorporates all activities and expenditures required to grow, harvest, and sell forest products from state trust lands efficiently. Activities within this program include field layout of timber sales; development of sale prescriptions; MEPA documentation; preparation of sale contracts, prospectuses, and notices; both field and office administration of timber sales; and sale billing and accounting. These responsibilities are shared among field foresters, area staff, and bureau staff.

The estimated annual sustainable harvest from forested trust lands is 50 million board feet as required by MCA 77-5-222. That figure is the department's annual sales target, until the new sustained yield target is approved by the Board of Land Commissioners.

In FY 2004, 22 timber sales for a total of 50.8 million board feet were taken to and approved by the board. The actual volume sold in FY 2004 was 50.1 million board feet (see Figure 25), which includes five timber sales that had been approved by the board prior to FY 2004.

During FY 2004, in excess of 46 million board feet of timber was harvested from state trust lands (see Figure 26), generating \$9,013,900 in revenue (see Figure 27). Timber harvest increased sharply toward the end of FY 2004 in response to an upward trend in lumber prices. The higher prices together with the increased harvest resulted in higher than expected revenue when compared to the prior year. The average price per thousand board feet was \$216 in FY 2004, compared to \$161 in FY 2003. Forest improvement fees collected from these timber sales amounted to \$2,029,732.

All timber sales and permits are developed, analyzed, and reviewed in the field by foresters and resource specialists to ensure that those sales comply with all applicable laws, policies, and management direction. At the end of FY 2004, DNRC had 62.7 million board feet under contract with an approximate value of \$11 million.

## Minerals Management

The Minerals Management Bureau is responsible for leasing, permitting, and managing approximately 2,988 oil and gas, metalliferous and non-metalliferous, coal, and sand and gravel agreements on 6.2 million acres of school trust land and more than 100,000 acres of other state-owned land throughout Montana.

General background information on bureau activities is available on the department's website:

[www.dnrc.state.mt.us/trust/tlmdhome.htm](http://www.dnrc.state.mt.us/trust/tlmdhome.htm)

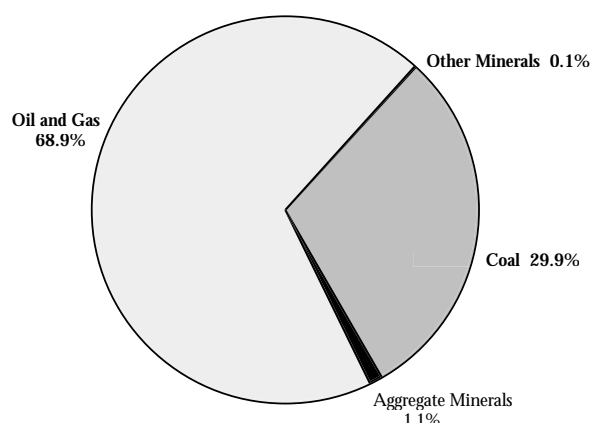
A calendar of key lease sale activities and dates is posted, and lease sale lists and sale results are available for viewing or downloading.

## Mineral Leasing

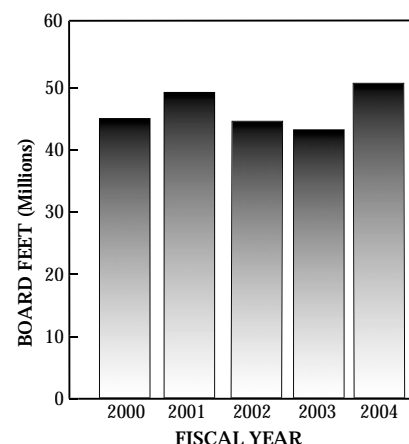
The program is responsible for reviewing and processing all mineral lease and permit applications; advertising, competitively bidding, and issuing new leases; reviewing and approving lease assignments; and collecting, verifying, and posting lease rentals and production royalties.

Revenues received in FY 2004 are listed in Table 28; the relative percentage derived from each mineral type is illustrated in Figure 28.

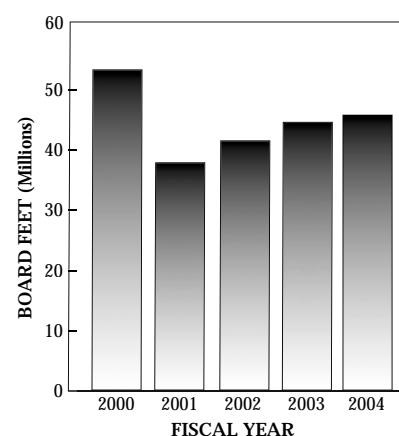
**Figure 28**  
Total Mineral Revenue  
by Mineral Type



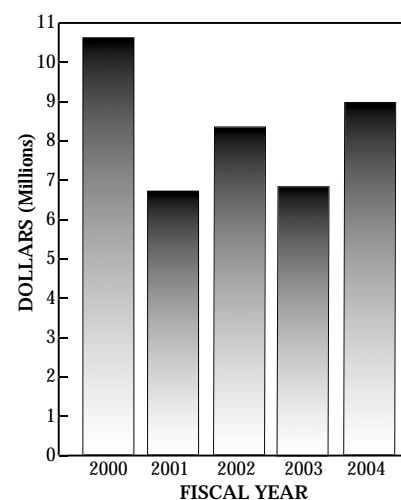
**Figure 25**  
Timber Volume Sold



**Figure 26**  
Timber Volume Harvested



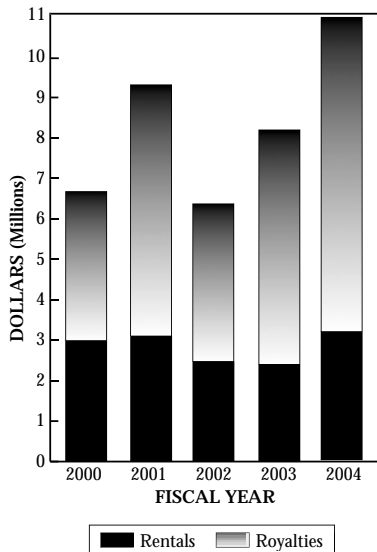
**Figure 27**  
Timber Revenue Generated



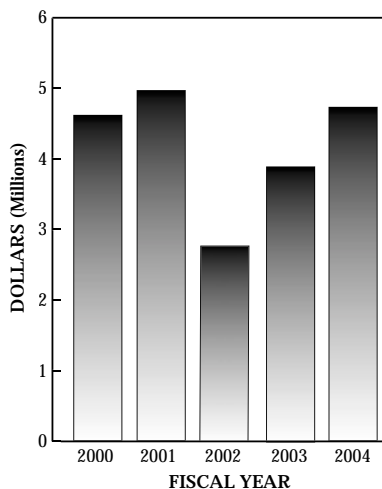
**Table 28**  
**Gross Revenues Received from Minerals in FY 2004**

Oil and Gas	Rentals/bonuses/penalties	\$3,187,540
	Royalties	7,703,137
	Seismic exploration	4,690
Aggregate Minerals	Rentals	600
	Royalties	173,178
Coal	Rentals/bonuses	43,897
	Royalties	4,676,964
Other Minerals	Rentals/penalties	20,009
	Royalties	972
<b>TOTAL</b>		<b>\$15,810,987</b>

**Figure 29. Oil and Gas Revenue (excluding Seismic Exploration)**



**Figure 30 Coal Royalties**



### Oil and Gas Leasing

The program is responsible for the leasing and monitoring of 2,852 oil and gas leases, 556 of which are currently productive. The number of oil and gas leases managed is up by 2 percent, while the number of currently producing leases increased by nearly 1 percent, compared to FY 2003. Activities related to existing leases include collecting, verifying, and posting rental, royalty, delay drilling, and shut-in payments; reviewing and approving assignments and tracking working interest ownership; reviewing and preparing for approval communitization agreements and unit operating agreements; and coordinating with field offices the review and approval of all proposed physical operations on state leases. In addition, four oral auctions of new oil and gas leases are prepared and conducted each year.

In FY 2004, 1,122,989 barrels of oil were produced; 5,750,201 MCF of gas and 576,071 gallons of condensate were also produced. Oil production increased 10.4 percent from FY 2003, and the average price also increased by 15.2 percent, to \$30.99 per barrel in FY 2004. Gas production increased 6.9 percent in FY 2004, while the price increased 23.5 percent from FY 2003, for an average price of \$3.95 per MCF. Increased prices and production volumes in FY 2004 resulted in a 33.8 percent increase in oil and gas royalty revenues, compared to FY 2003. Oil and gas revenues received over the last five fiscal years are shown in Figure 29.

### Other Mineral Leasing

The program also administers a wide variety of leases—including metalliferous and non-metalliferous leases, coal leases, gravel permits, and land use licenses for non-mechanized prospecting—for all other mineral activity on state trust land. In FY 2004, 3,911,826 tons of coal were mined, which is a 11.9 percent increase over production in FY 2003. The average price per ton decreased 10.9 percent from FY 2003 for an average price of \$8.60 per ton. Royalties increased 20.6 percent compared to FY 2003. The volume mined can vary significantly from year to year, as mining activity moves onto or off state land within the normal sequence of mining operations. A five-year summary of coal royalties is shown in Figure 30. Royalties and rentals are also collected for minerals such as bentonite, clay, gold and associated minerals, peat, and shale.

## Senate Bill 495 (Coal Tax Trust Loan) Implementation

The 2001 Legislature passed Senate Bill (SB) 495, which authorized the department to borrow from the Coal Severance Tax Trust Fund and place the loan proceeds in the Common School Permanent Fund (trust fund). The federal Enabling Act requires that mineral royalties be deposited into the Permanent Fund. Therefore, the loan was intended to keep the trust fund whole while redirecting a specified amount of future mineral royalty revenues. The redirected royalties cover debt service on the loan with any remaining amount distributed to school equalization.

The Board of Land Commissioners reviewed the legislation and directed the department to implement the provisions of SB 495 beginning in Fiscal Year 2002. The SB 495 fiscal note estimated royalty revenues for the next 30 years. Board staff selected a discount rate of 9.85 percent, which produced a calculated present value (i.e., loan) amount. Effective July 1, 2001, the department borrowed \$46,366,904 from the Coal Severance Tax Trust Fund and placed it in the Common School Permanent Fund in lieu of \$138,894,596 in future net mineral royalties.

Loan principal and interest payments through FY 2004 total \$11,902,492. Table 29 summarizes the changes in the amounts distributed to school equalization and deposits into the permanent trust fund from the implementation of SB 495.

Table 29					
Impact of SB 495 on Public School Trust					
Net Change: SB 495 vs. No SB 495					
Loan Year	Fiscal Year	Distributions	Permanent Trust Fund		
		Equalization Account Net Gain (Loss)	Deposits to Trust Fund	Loan Balance	Trust Fund Net Gain (Loss)
Execute Loan		\$0	\$46,366,904	\$46,366,904	\$0
1	2002	3,359,643	(3,492,426)	0	(3,492,426)
2	2003	5,492,305	(5,958,910)	0	(5,958,910)
3	2004	6,228,585	(8,980,735)	(1,820,816)	(7,159,919)
Through FYE 2004		\$15,080,533	\$27,934,833	\$44,546,088	(\$16,611,255)
Life of Loan (est.)		(\$5,268,122)	(\$97,503,284)	\$0	(\$97,503,284)

On July 1, 2001, the loan amount increased the permanent trust fund balance by \$46,366,904 and created a collateralized loan payable obligation for the same amount. As of June 30, 2004, SB 495 has increased distributions to school equalization by \$15,080,533 and redirected new royalty revenue totaling \$18,432,071 from the trust fund. The net increase in trust fund balance from SB 495 is now \$27,934,833 with a remaining loan payable obligation of \$44,546,088. The resulting net change in asset (i.e., trust fund) position is therefore \$16,611,255 lower than it would have been without SB 495. Over the full term of the legislation, both distributions to school equalization and the permanent trust fund balance will be lower by an estimated \$5.3 million and \$97.5 million, respectively.

MonTRUST, a nonprofit citizens' group, filed suit in April 2002 alleging that the implementation of SB 495 does not comply with the fiduciary duties of the State of Montana. State district court ruled in favor of the State in June 2003. MonTRUST's appeal to the Montana Supreme Court is pending.

### **Royalty Auditing and Accounting**

The Royalty Audit Program provides additional revenue to the school trusts through programmatic audits. The program identifies royalty under- and over-reporting, rectifies discrepancies, and raises the level of voluntary compliance. Most audits have a single payor and involve multiple leases.

In FY 2004, audit activity remained steady and continued to show improved levels of compliance. Six audits were completed with assessments totaling \$23,648. An additional six audits are currently in progress, two with preliminary assessments of amounts due ranging from \$1,949 to \$6,682.

### **Riverbed Leasing**

The Minerals Management Bureau continues its efforts to clarify title to the beds and islands of navigable rivers. Pursuant to statute, the state owns those lands below the low-water mark, islands and their accretions formed in the riverbeds after statehood, and abandoned channels formed by avulsion. Because two navigable rivers in Montana flow through areas with major oil and gas resources, the department has conducted numerous riverbed studies to determine and document state ownership of land. This process allows the state to take a progressive position in issues involving substantial royalties.

In FY 2004, the program managed 14,222 acres of leased riverbed and island tracts. These tracts provided the state with \$277,822 in oil and gas revenues while generating an additional \$721 from other mineral leasing activity.

This same ownership review process is also becoming increasingly important in areas where surface development and/or use encounters beds, islands, and abandoned channels of navigable rivers. The department continues to work with state, federal, and private entities whenever ownership issues arise.

### **McDonald Mine Proposal**

In November 1994, the Seven-Up Pete Joint Venture (SUPJV) submitted a mine operation and reclamation plan to the Montana Department of Environmental Quality (DEQ) and DNRC for review. The proposed open-pit gold mine was to be located near the town of Lincoln in Lewis and Clark County and included both private and state school trust lands. Preparation of a joint environmental impact statement then commenced, with DEQ, DNRC, and the U.S. Army Corps of Engineers serving as the co-lead agencies.

On September 23, 1998, DNRC notified SUPJV that the remaining 17 months of the primary lease term for each of the leases was running and that the leases would expire unless permitting or commercial mineral production was ongoing within that time. The mineral leases covering the state school trust lands subsequently terminated of their own accord on February 23, 2000.

SUPJV amended its previously filed lawsuit against the State of Montana to include a challenge to the lease terminations. That lawsuit also alleges that I-137, a state

initiative that prohibits new open pit mines that utilize cyanide, constitutes a taking of property rights held by SUPJV. On December 9, 2002, the First Judicial District Court dismissed all counts in SUPJV's lawsuit against the State of Montana. SUPJV appealed that decision to the Montana State Supreme Court. The court heard oral arguments on October 28, 2003. That appeal is pending.

## Otter Creek Tracts

In 2002, the Board of Land Commissioners accepted title to approximately 7,623 acres of federal mineral estate in the Otter Creek area south of Rosebud, Montana. These "Otter Creek tracts" represent compensation to Montana for the loss of taxes and jobs arising from the federal buyout of the proposed Crown Butte Mine. Pursuant to state law, these tracts are common school trust lands.

The value of the Otter Creek tracts lies in their potential for coal development. Preliminary estimates attribute some 500 million tons of coal reserves to the state's existing and acquired mineral estate. The 2003 Legislature passed Senate Bill 409, which authorized the department to spend up to \$300,000 of common school trust revenue for pre-lease data acquisition and evaluation. Fieldwork to gather additional coal quality information and preliminary cultural inventory information has been completed. Data and reports are expected in the first quarter of FY 2005.

## Real Estate Management

The Real Estate Management Bureau administers all activities on lands classified as "other" and all secondary activities on lands classified as grazing, agriculture, or timber. The bureau's Real Estate Services Section is responsible for sales, exchanges, and grants associated with management of 5.1 million acres. The Right-of-Way Section manages the disposition of rights-of-way. The Property Management Section manages the Leasing Program and formulates a programmatic plan for the development of special uses on trust lands. The Leasing Program includes commercial developments, new leases such as wind farms, existing homesite leases, and short-term land use and recreation licenses. The bureau is also responsible for assisting other agencies with the management of their land. MCA 77-2-351 allows the state to transfer non-trust lands to local governments for a commitment that the property be used for a continuing public purpose.

The sources of FY 2004 real estate management revenue are summarized in Table 30, and each is shown as a percentage of the total real estate management revenue in Figure 31. Income over the last five years is illustrated in Figure 32.

<b>Table 30</b> <b>Real Estate Management</b> <b>Revenues in Fiscal Year 2004</b>	
Rights-of-Way	\$2,117,993
Land Sales	2,900
Leases	
Residential	929,995
Nonresidential	386,147
Licenses (Nonrecreational)	179,784
Recreational use	914,284
<b>TOTAL</b>	<b>\$4,531,103</b>

Figure 31. Real Estate Management Revenue  
by Source in FY 2004

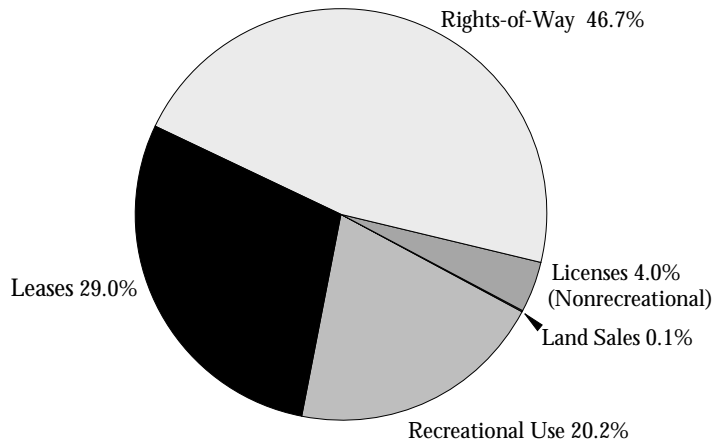
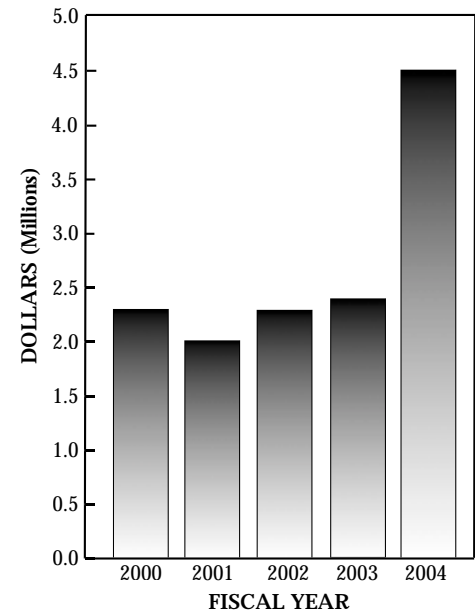


Figure 32. Real Estate Management Revenues  
FY 2000 to FY 2004



### Leasing/Licensing

The Property Management Section is actively planning and developing tracts of land with high potential for cabinsite, single- and multi-family residential, and commercial leases. Commercial development of trust land in urban areas has the possibility of increasing revenues over a million dollars over the next 20 years. Additionally, the section has solicited for and received proposals for the development of wind energy on trust lands. Revenues for Fiscal Year 2004 are listed in Table 31.

Table 31 Lease and License Revenue in FY 2004		
Type	Lease Income	License Income
Commercial	\$ 107,385	\$ 7,806
Community/public facilities	9,182	5,207
Communication sites	24,833	20,144
Conservation	74,548	13,236
Developed recreation	93,066	15,218
Industrial	20,463	2,666
Institutional	32,458	0
Residential	929,995	0
Residential accessory	3,908	18,005
Rural commercial	3,061	21,421
Rural industrial	8,819	42,963
Other leases/licenses	8,424	33,118
<b>TOTALS</b>	<b>\$1,316,142<sup>1</sup></b>	<b>\$ 179,784</b>

1. Includes both residential and other lease income.

## **Spring Prairie Center— Kalispell**

This parcel, adjacent to Kalispell, has been annexed into the City of Kalispell and zoned with a Planned Unit Development agreement. Infrastructure is now available to begin development of the property. A Lowe's Home Improvement Store is the anchor tenant for the first of three phases of development. Future phases may include a multi-screen theatre and several national-name tenants. This property has promise for retail, commercial, professional, and residential development.

## **Whitefish Area Plan**

Trust lands within the greater Whitefish area have historically been managed for timber and agricultural uses, while the surrounding community's demographics and economy have significantly changed. The department's goal is to manage trust lands to serve the surrounding community better, while increasing revenue to the trust. In association with the City of Whitefish and Flathead County's updating their Growth Policy, the department is developing a neighborhood plan for approximately 13,000 acres within 5 miles of Whitefish. The Whitefish Area Plan will attempt to bring together the needs of the trust beneficiaries and the needs of the surrounding community.

## **Programmatic Plan**

The bureau has prepared a Draft Programmatic Environmental Impact Statement to analyze and disclose impacts and compare alternative management strategies for real estate management on state trust lands. The Final Programmatic Environmental Impact Statement will identify a preferred alternative that will, in turn, become the Real Estate Management Plan. The plan will provide the bureau with consistent policy, direction, and guidance in its management of real estate activities for the development of commercial, industrial, residential, and conservation uses on the 5.1 million acres of state trust lands.

## **Exchanges**

The department reviews and processes land exchanges for the State Land Board under a land exchange policy. In FY 2004, the bureau received one new application and supported five land exchanges in association with the field offices. Three land exchanges were completed in FY 2004.

## **Land Sales and Acquisition**

The 2003 Legislature passed House Bill 223, which enables the State Land Board to sell and purchase parcels of state trust land to:

- Prudently increase the revenue-generating capacity of state trust lands
- Diversify trust holdings and reduce the number of isolated parcels
- Make management of state trust lands more efficient
- Protect the corpus of the trust from any devaluation or loss

Rules to implement the Land Banking Program were developed and approved by the board in September 2004. Information is available at:

**[www.dnrc.state.mt.us/trust/landbanking.htm](http://www.dnrc.state.mt.us/trust/landbanking.htm)**

## Non-Trust Land Activity

The department is responsible for maintaining ownership records of non-trust lands owned by other agencies, except the Department of Fish, Wildlife and Parks and the Department of Transportation. The bureau facilitates transactions such as land sales, leases, and licenses between state agencies and interested parties.

In FY 2004, the department facilitated the following transactions.

- Department of Military Affairs in the sale and transfer of the Bozeman and Whitefish Armories to those respective cities
- Department of Corrections in extending a lease with Jefferson County for operating and maintaining the fairgrounds, as well as issuing a new land use license for a gravel stockpile

The bureau is continuing to work on several projects for various state agencies.

## Recreational Use

The Recreational Use Program was established by the 1991 Legislature. Legally accessible state trust lands may be used for recreational activities by persons who hold state land recreational use licenses, provided the lands are not closed or restricted for such use by rule or by the department. The type of license required depends on the type of activity conducted. Licenses for “general” recreational use — which, with a few exceptions, includes most forms of noncommercial and nonconcentrated recreational activities—can be purchased from all Montana Department of Fish, Wildlife and Parks license agents and DNRC area offices. “Special” recreational use licenses, which are available only from DNRC area offices, are required for concentrated recreational use conducted by groups or organizations, or for commercial activities such as outfitting. In FY 2004, 36,732 general recreational use licenses were sold.

The 2003 Legislature passed Senate Bill 130, which changed the licensing of general recreational use. Beginning March 1, 2004, use of state trust lands for hunting, fishing, and trapping is now assessed under the wildlife conservation license. A \$2.00 fee is added to that license for those recreational uses. All other uses of trust lands are allowed under the existing general recreational use licensing process. From March 1, 2004, to June 30, 2004, 257,814 conservation licenses were sold, which resulted in \$515,628 in revenue.

Revenue from all recreational use of state trust lands in Fiscal Year 2004 totaled \$914,284.

## Rights-of-Way/Easements

In FY 2004, the department presented 411 right-of-way applications to the board for approval. Of these requests, 326 were applications submitted under MCA 77-1-130, which provides that “a person or a county may apply to the department for a historic right-of-way deed to provide access to the applicant’s private property, to provide continuation of a county road, or to provide for authorization of existing utilities.”

Rights-of-way generated \$2,117,993 in FY 2004, with three-quarters of this income, \$1,598,965, coming as a result of granting a Conservation Easement to the Montana Department of Fish, Wildlife and Parks in the Blackfoot-Clearwater Game Range vicinity. Historic rights-of-way generated \$73,562 for the state permanent trust beneficiaries, while other non-exclusive easements for access roads and utilities garnered \$445,466.

